



DOCKET NO.: T0529.70003US00

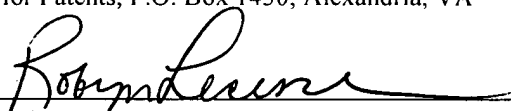
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Amarnath R. Arsikere et al.
Serial No: 10/671,154
Confirmation. No.: 7552
Filed: September 25, 2003
For: METHOD AND APPARATUS FOR NETWORK
THROUGHPUT MEASUREMENT

Examiner: Not Yet Assigned
Art Unit: 2857

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 21st day of January, 2004.


Signature

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

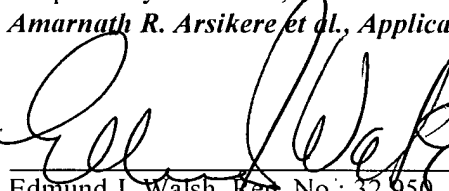
- ☒ Information Disclosure Statement
- ☒ Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 720-3500, Boston, Massachusetts.

A check is not enclosed. If a fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,
Amarnath R. Arsikere et al., Applicant

By:


Edmund J. Walsh, Reg. No.: 32,950
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211
Telephone: (617)720-3500

Docket No. T0529.70003US00
Date: January 21, 2004
xNDDx



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Applicant: Amarnath R. Arskiere and Igor A. Shvyrkov
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**STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed before the mailing date of a first Office Action on the merits in the above-identified case.

No fee or certification is required.

PART II: Information Cited

The applicant would like to bring to the Examiner's attention the following other information, whose relevance is discussed in Part III below:

PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

The following are remarks concerning the other information cited:

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

Applicants wish to inform the PTO of the following facts:

A technique referred to by the inventors as "time based throughput measurement" has been incorporated into a product called NetFlare sold by their employer, Teradyne, Inc.

In 2001, Teradyne, Inc. began discussions with Telus, a Canadian operator of a DSL network, about using NetFlare to provide customer service for subscribers to its network. At that time, NetFlare included a throughput measurement technique that required the transmission of a block of data. The amount of data used to measure throughout was intended to be specified at the time the product was installed. The same amount of data was thereafter used for all throughput measurements.

In late 2001, Telus agreed to allow Teradyne to install NetFlare for a trial in its DSL network in Canada. In the early part of 2002, Teradyne employees, including one of the

inventors, monitored use of NetFlare by Telus employees providing customer service to Telus subscribers. At the conclusion of the trial:

- a) Telus elected to buy the equipment that had already been installed and placed an order for additional NetFlare units.
- b) Teradyne employees noticed several weaknesses with the throughput measurement technique that was included in the trial.

The inventors then began to develop the technique described in the present patent application. At the time, the inventors believed that the conventional throughput measurement technique in NetFlare was not adequate for Telus because of an anomaly with Telus' network. In July 2003, a Telus specific software upgrade was provided to Telus. That upgrade was intended to change the throughput measurement technique used in the NetFlare units installed in Telus' network in Canada. This upgrade included a throughput measurement technique in which throughput was calculated by averaging the transmission time for multiple blocks of data. The technique stopped collecting data either when sufficient data was collected or when a predetermined period of time had passed.

The upgrade was provided to Telus in Canada. The software in which the upgrade was provided is considered Teradyne proprietary software. The people using the software would not be able to observe the technique used for throughput measurement.

At some time after September 30, 2002 and before December 31 2002, the inventors adapted the time based throughput measurement technique used in NetFlare to be more similar to the one provided to Telus. In the modified version, the size of the blocks of data could be configured so that the technique would operate on many types of networks. The product became configurable for networks having different packet sizes. It became configurable for "bursty" and "non-bursty" networks. Thereafter, the feature was incorporated into NetFlare products presented to network operators other than Telus.

Throughout this time, the inventors were resident in the US and primarily worked from Teradyne's office in Deerfield, IL.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,
Amarnath R. Arskiere, et al., Applicant(s)

By: 

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Docket No. T0529.70003US00

Date: January 24, 2004

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